IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 1120 OF 2004

Mrs. Nasreen w/o Mohammed Iqbal Shaikh .. Appellant

Vs.

Ali Hassan Rabbak Hasan Khan and ors. .. Respondents

Mr. Amit Shete h/f Mr. Amit Borkar for appellant.
Mr. L.S. Gaikwad for Respondent No.1.

CORAM: B.H. MARLAPALLE, J.

Date : October 05, 2005.

P.C.:

1. S.C. Suit No.2458 of 1988 came to be dismissed in default by the trial court on 7/3/2000 and Notice of Motion No.1413 of 2004 was filed for restoration of the suit on or about 30/11/2004. The said Notice of Motion has been dismissed by the impugned order dated 30/11/2004.

2. It is clear from the roznama as placed on record that on 1/12/1999, 8/2/2000, 15/2/2000 and 29/2/2000 none remained present for the plaintiff. On 29/2/2000 the court passed an order, " Parties and their advocates absent. Adjourned for dismissal to

7/3/2000", and on 7/3/2000 when the suit was called out none remained present for the plaintiff and, therefore, the suit was dismissed. The restoration application was thus moved after about four years and that to without giving any reason. There is no application for condonation of delay. Thus, the order passed by the trial court does not call any interference and the appellant himself is to blame for utter negligence. The suit was pending for more than 12 years and it was obvious that the plaintiff was not interested in getting the suit adjudicated.

3. The appeal is dismissed in limine.

(B.H. Marlapalle,J.)